

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

FRANCIS J. DAUSCHA, III,)	
)	
Plaintiff,)	
)	Case No. 4:13-cv-50
v.)	
)	<i>Mattice / Lee</i>
UP COMMUNICATIONS SERVICES, LLP,)	
)	
Defendant.)	

ORDER

Before the Court is a motion for leave to file second amended complaint [Doc. 23] filed by Plaintiff. Plaintiff seeks to file an amended complaint to add a third count and correct the allegations of the second count. Under Fed. R. Civ. P. 15(a)(1)(B), Plaintiff may file an amended complaint as a matter of right within 21 days after Defendant filed its motion to dismiss [Doc. 14]. Plaintiff's motion to amend was filed within the 21 days allowed. Plaintiff represents that Defendant does not oppose the motion to amend, and the parties have agreed that the amended complaint will render Defendant's first motion to dismiss moot [Doc. 14]. Indeed, Defendant has filed a second motion to dismiss [Doc. 25] based upon Plaintiff's proposed second amended complaint [Doc. 23].

Accordingly, Plaintiff's motion for leave to file proposed second amended complaint [Doc. 23] is **GRANTED**. Plaintiff is **ORDERED** to file the second amended complaint within 7 days of this Order. Furthermore, Defendant's first motion to dismiss [Doc. 14] is **STRICKEN** as moot.

SO ORDERED.

ENTER:

s/ Susan K. Lee

SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE